

U. S. TREASURY DEPARTMENT  
Internal Revenue Service  
Washington 25, D. C.

Alcohol and Tobacco Tax Division  
Industry Circular No. 55-7

March 31, 1955

Calorie References and Non-Fattening Claims  
or Implications in Malt Beverage Advertising

To members of the brewing industry  
and others concerned:

1. For some time, approximately three years, some members of the brewing industry have employed advertising themes which either directly or indirectly have tended to convey the impression that their products are non-fattening or relatively less fattening than other competitive beverage items or than food items used in the normal diet. The earliest general approach to this theme involved the use of claims of freedom from starch or relative freedom from sugar, on the part of the advertised malt beverage products.

2. In the Spring of 1953 members of the industry were advised through the media of the two major brewing trade associations that in the Government's view the sugar and starch claims being employed were misleading and contrary to the regulations, since all beers are free from starch and none contains more than a negligible quantity of sugar, so small as not to account for any appreciable portion of the product's caloric content. In the Spring of 1954 the industry was again advised, through the same media, that the more recently employed calorie references, to avoid misleading the public, should be qualified by accurate statements as to actual caloric content; and the industry was further advised that we did not object at that time to caloric comparisons between the advertised beer and food or beverage items commonly consumed by the public.

3. As time passed, however, and as additional brewing companies adopted the low calorie theme, it became increasingly evident that low calorie claims, even when qualified by statements of the actual caloric content, might be misleading in certain respects; and numerous industry members, as well as certain State control officials, urged the re-examination of this question for the purpose of determining whether it might be misleading in any of its aspects.

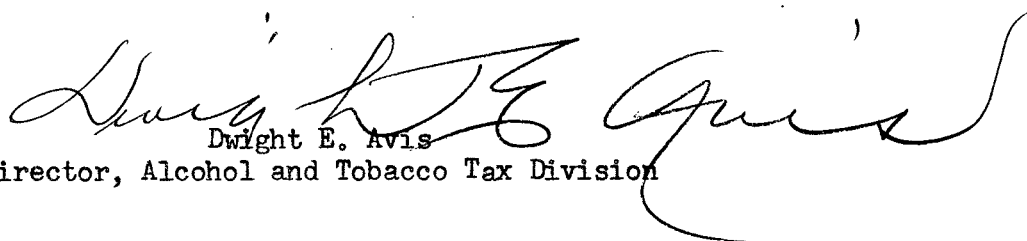
4. During the closing weeks of the year 1954, the Division began a consumer survey in order to determine whether or not any misleading implications were involved in the use of such a theme. The survey has but recently been completed and its results tabulated, and

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appears quite conclusively to support the position that all of the treatments calculated to imply non or less fattening properties on the part of beer are misleading and therefore contrary to the regulations. Substantial percentages of the people interviewed in the survey received the impression that the advertised product was either entirely non-fattening or at least negligible in calorie content; that it was less fattening than other competitive beers; that the consumer could lose weight by drinking it; that the product was approximately equal in food value to the food items with which its calorie content was compared; and that the advertised product could be substituted for these food items with the same nutritional results.

5. In view of these findings, members of the brewing industry should promptly desist from the use of any further references to the calorie content of their products and to more specific implications, however made, that their products are non-fattening or virtually so. Inasmuch as the Department has not previously objected to calorie treatments, pending the development of specific evidence on this point, a reasonable time will be allowed for the preparation of substitute advertising copy. Since it is now evident, however, that such advertising does not comply with the provisions and intent of the Federal Alcohol Administration Act and regulations thereunder, the transition to unobjectionable advertising should be effected with as much expedition as possible.

6. Inquiries in regard to this industry circular should refer to the number thereof and the symbols O:AT:B.

  
Dwight E. Avis  
Director, Alcohol and Tobacco Tax Division